

The Chair, Jack Steiner at 7:00pm called the regularly scheduled Selectmen's meeting to order. Those present included Lloyd Sullivan and Jenifer Landman (Selectmen), and Russell McAllister (Town Administrator).

### Questions & Comments

The Chair opened the meeting by making a statement regarding a previous action of the Board that resulted in the removal of Bob Landman's appointment as North Hampton's Commissioner to the RPC. Mr. Steiner explained that the previous action is considered a "non binding vote" because of an improper procedure and therefore Mr. Landman will continue serving as North Hampton's Commissioner. Mr. Steiner noted that the RPC would review the issue with their legal counsel. Mr. Steiner said that he saw the position (RPC Commissioner) serving more as an advisor and link between the RPC and North Hampton Planning Board. Mr. Steiner noted that he would like to create an alternate or 3<sup>rd</sup> position (Commissioner) and fill it as recommended by the Planning Board.

The Board next addressed the issue of reconstituting the Board in recognition of a newly elected member, Jenifer Landman. It was explained that an established tradition among Board members was to pass the Chair to the second year member. Therefore, Mr. Steiner nominated Mr. Sullivan to serve as Chair of the North Hampton Board of Selectmen. Ms. Landman seconded the motion. The vote was unanimous and so moved. Mr. Steiner passed the gavel and Mr. Sullivan assumed the role of Chair.

Mr. Sullivan addressed those assembled regarding his wish to remain on as Selectmen's representative to the Planning Board. Mr. Sullivan read the text of a letter from the Town Attorney that described the term of appointment of the Selectmen's representative on the Planning Board. Mr. Sullivan noted that the statute stipulates that his term as Selectmen's Representative runs the same length as his term as Selectmen. Mr. Steiner expressed his opinion that rotation of Board members in varying capacities was more beneficial. Past practices and traditions that were established by previous Boards followed the pattern of rotation. Mr. Steiner noted that he had served two years on the Planning Board only because he was twice elected. In his experience Selectmen had always rotated in various representative capacities by mutual agreement among Board members. Mr. Steiner voiced his support of Ms. Landman serving on the Planning Board because it was a good way to develop experience as a Selectmen. He expressed his view that it Mr. Sullivan should rotate to the Budget Committee and that he would rotate to the Conservation Commission. Ms. Landman read the full text of **RSA 673:5** wherein the terms of land use boards are described.<sup>1</sup> Ms. Landman asserted that her reading of the statute indicated that the term of the selectmen's representative to the planning board was defined by the Board of Selectmen. Ms. Landman noted that the Board has traditionally appointed a member to the planning board for one year in just the manner that Mr. Steiner and Mr. Sullivan had previously been appointed. Ms. Landman believed that the process should continue. Mr. Sullivan noted that since 1980 Board members have served at least two years and as much as four years. Mr. Donald Gould, Chair of the Planning Board, expressed his dismay at what he viewed as an attempt to change the composition of the Planning Board. Mr. Gould noted that the NH Supreme Court had ruled it illegal to

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<sup>1</sup> § 673:5. Terms of Local Land Use Board Members.

I. (a) Except as provided in subparagraph (b), the term of any ex officio member serving on a local land use board shall coincide with the term for that other office; except that the term of the administrative official appointed by the mayor shall terminate with the term of office of the mayor appointing the official, and that the term of the administrative official appointed by the town council, board of selectmen, or village district commissioners shall be for one year. (b) A city or town council, board of selectmen, or the village district commissioners may determine that the city or town council member, the selectman member or the village district commission member shall be subject to a 4 month or an annual appointment under such conditions as it determines.

unseat a Board member (selectmen's representative) with less than two years. Mr. Philip Wilson challenged Mr. Sullivan's assertion and characterized the lists identifying Selectmen Representatives within the Town Reports as exhibiting an inconsistent pattern of appointment. Mr. Wilson asked why Mr. Sullivan objected to the changing composition of the Board. Mr. Sullivan replied that there were some exciting projects coming up and that he wanted to take part in them. Mr. Sullivan referred to a legal opinion from Town Counsel that supported his position. Mr. Sullivan also read the text of a NH Supreme Court decision *Silva v. Botsch (1980)* regarding the term lengths of ex officio members. Ms. Landman noted that if she were the planning board representative she would not vote on a slate, or as a block but on the merits of the issue. Ms. Landman spoke to the tradition among the North Hampton Board of re-appointing members in differing assignments on a rotating basis. Ms. Landman characterized such rotation as healthy to the composition of the entire Board. Mr. Steiner voiced his support of Ms. Landman's view. Mr. Sullivan disagreed with that characterization. Ms. Landman made the motion to establish a one-year rotation schedule for Board members as serving in a representative capacity to other boards and commissions. Mr. Steiner seconded the motion. Ms. Landman and Mr. Steiner voted to approve the motion. Mr. Sullivan voted against adoption noting that it violated existing law. The motion carried with two votes in the affirmative and one vote in opposition. Mr. Roland Neves commented that he was sorry to see a house such as North Hampton divided. Ms. Judy Day echoed Mr. Neves sentiment. Mr. Gould noted that the issue was not about Ms. Landman. The issue was about Mr. Sullivan and the law. Ms. Laura Simmons (planning board member) characterized planning board members as working together despite their having different opinions. Mr. Joe Arena, also a planning board member, noted that he was not part of any block. Mr. Larry Miller noting that he was the "Father" of the elected planning board echoed his support for rotation of assignments among Board members. Mr. Peter Simmons re-read the NH Supreme Court decision *Silva v. Botsch (1980)*. More discussion ensued after which Mr. Steiner made the motion to appoint Ms. Landman as the ex officio member to the planning board. Ms. Landman seconded the motion. Mr. Steiner and Ms. Landman voted to approve the appointment. Mr. Sullivan voted against approval. The motion carried with two votes in the affirmative and one vote in opposition. Mr. Sullivan noted that the vote was illegal and that he was still the ex officio member of the planning board. Mr. Steiner voiced his objection to Mr. Sullivan's intention to remain as the ex officio member of the planning board. Mr. Wilson expressed his dismay over a discussion characterized by legalisms and the balance of power. He had anticipated hearing a discussion from Board members over how to best serve the needs of the Town. Moreover he expected to hear elevated discussions reflecting the long traditions of self-government.

### **Broadband Services**

#### *Bob Landman*

Mr. Landman noted that a new cable company he was currently researching called Metrocast.com, which had installations in Deerfield. Mr. Landman decried the state of AT&T's broadband service offerings in North Hampton. Particularly lamentable was the lack of any high-speed broadband internet service in Town. Mr. Landman urged that the Board reopen the contract in an effort to get better services for the Town. Mr. Sullivan suggested that the TA get copies of other municipal cable contracts and that Tim Harned, Bob Landman and Jenifer Landman could review them and initiate action. The TA was directed to get a hold of the cable contracts from surrounding towns. The TA agreed to do so.

### **Selectmen Issues**

#### *Status of Phone Installation*

The TA noted that the phone system was installed and working and that he was now looking into the viability and cost of utilizing a T1 line. Ms. Landman asked whether the Town had voted to approve a T1 line. The TA explained that voters approved the PBX (phone system). Mr. Harned interjected and noted that a T1 was just a bigger line that would accommodate all the individual phone lines and provide bandwidth for data as well. The TA explained that he was still researching the cost and would get back to the Board when he had the necessary information.

#### *ZBA Appointments*

Mr. Sullivan noted that the Board had received letters from current ZBA members expressing their continued interest in serving on the ZBA. Mr. Sullivan made the motion to re-appoint Mark Johnson and Bob Fields as full members of the ZBA. Mr. Steiner seconded the motion. The vote was unanimous and so moved. Mr. Sullivan next made the motion to appoint Charles Gordon as an alternate on the ZBA. Mr. Steiner seconded the motion. The vote was unanimous and so moved. Mr. Michael IaFolla (ZBA Chair) noted that Mr. Gordon would be called upon as an alternate of last resort as there were times when other members were unable to make the meeting. Mr. Steiner expressed interest in receiving letters expressing continued interest from individuals whose appointments were expiring. The TA agreed to send out letters to all individuals soliciting their continued interest.

#### *Water Quality Committee*

Mr. Sullivan proposed the formation of a committee to look into and monitor water quality issues in North Hampton. It was noted that many residences still utilized private wells as their source of potable water and therefore some sort of water quality monitoring would help preserve the safety of public water drinking supplies. General discussion ensued in the same vein as above. Mr. Sullivan made the motion to establish a Water Quality Committee comprised of three members for the purpose of monitoring water quality issues within North Hampton and to appoint the following members; Larry Miller, Tim Harned and Michael IaFolla. Mr. Steiner seconded the motion. The vote was unanimous and so moved.

#### **Administration/Business**

Mr. Sullivan made the motion to accept the regular and non-public minutes of March 12<sup>th</sup>, 2001. Mr. Steiner seconded the motion. The vote was unanimous and so moved.

The selectmen reviewed correspondence and/or signed:

- a. Payroll
- b. Manifest
- c. DRA - MS-2 Report of Appropriations
- d. **Contract - Rising River (Records Storage Management)**

The TA briefed the Board concerning the contract for record storage services as proposed by Rising River noting that the proposal entailed concluding the work within 20 business days. Mr. Steiner made the motion to approve the contract and to authorize the TA to sign on behalf of the Board. Mr. Sullivan seconded the motion. The vote was unanimous and so moved.

- e. Contract - Architectural Services (Rich Correll) - **Tabled pending RFP**
- f. **Ladd Carmen - Settlement Agreement**

The TA briefed the Board on a proposed settlement to the long running legal battle (three decades, two centuries, and two millennia) with Ladd Carmen concerning zoning violations. The TA explained that the Town had prevailed in the District and Superior Courts and had been awarded costs and attorney fees in the amount of \$7,395, which had recently been paid. Mr. Carmen several months previous filed suit for jury trial in Superior Court claiming damages (for the court sanctioned removal of junk cars) in the amount of \$25,000. The TA and Town Counsel had met with Mr. Carmen and his attorney for a Court sponsored mediation. Given that the cost of a jury trial would cost approximately \$10,000, and that the potential for an adverse ruling by a jury could be in the amount of \$25,000, the TA recommended that the Board settle the matter for \$7,395. Mr. Steiner made the motion to approve the settlement agreement. Mr. Sullivan seconded the motion. The vote was unanimous and so moved.

- g. Beach Stickers - continued price of \$20.00

- h. NHMA Town & City Workshops
- i. Executive Council Newsletter
- j. Coakley Minutes

Mr. Landman addressed the Board expressing his objection to his removal by the Board and the manner in which the situation was handled. He objected to his dismissal as being a form of reprimand. Mr. Landman strenuously advocated his free speech rights and read from "*Respected Quotes*" from the Congressional Record. Thomas Jefferson and George Washington were both quoted. Mr. Landman expressed alarm at his being attacked because of his method of speaking and he also felt "sandbagged", as he received no warning about the action of the Selectmen. Mr. Landman noted that the RPC was meeting on Wednesday and that he was the subject of the meeting. He described the present situation as shameful and noted that it never should have been part of a public meeting. Mr. Sullivan acknowledged Mr. Landman's free speech rights and noted that the Board's previous action was not enforceable. Mr. Sullivan asked what Mr. Landman wanted. Mr. Landman replied that he wanted an apology and \$1,300 to cover his legal expenses. Mr. Sullivan advised Mr. Landman to submit a letter to that effect. Mr. Steiner apologized for exceeding his authority.

#### **Adjournment**

There being no further business to come before the Board the public meeting adjourned at approximately 9:35pm. Mr. Steiner made the motion to convene in non-public session under RSA 91-A:3 II (a) to discuss personnel issues. Mr. Sullivan seconded the motion. The vote was unanimous and so moved.

Respectfully,

Russell McAllister  
Town Administrator